

**2005**

**STATE OF NEBRASKA**

**STATUTES RELATING TO  
NEBRASKA CERTIFIED NURSE MIDWIFERY PRACTICE ACT**

**NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM**



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## STATUTES PERTAINING TO NURSE MIDWIFERY

**71-1738. Act, how cited.** Sections 71-1738 to 71-1765 shall be known and may be cited as the Nebraska Certified Nurse Midwifery Practice Act.

Source: Laws 1984, LB 761, §1; Laws 2005, LB 256, §82. Operative date July 1, 2007.

**71-1739. Legislative findings.** The Legislature hereby finds and declares that the Nebraska Certified Nurse Midwifery Practice Act is necessary to safeguard public life, health, safety, and welfare, to assure the highest degree of professional conduct by practitioners of certified nurse midwifery, and to insure the availability of high quality midwifery services to persons desiring such services.

Source: Laws 1984, LB 761, §2. Effective date July 10, 1984.

**71-1740. Definitions; where found.** For purposes of the Nebraska Certified Nurse Midwifery Practice Act, unless the context otherwise requires, the definitions found in sections 71-1743 to 71-1751 shall apply.

Source: Laws 1984, LB 761, § 3; Laws 1999, LB 828, § 160. Effective date August 28, 1999.

**71-1741 and 71-1742. Repealed.** Laws 1999, LB 828, § 178.

**71-1743. Boards, defined.** *(Effective until July 1, 2007)* Boards shall mean both the Board of Nursing and the Board of Medicine and Surgery.

**71-1743. Board, defined.** *(Effective on July 1, 2007)* Board shall mean the Board of Advanced Practice Registered Nurses.

Source: Laws 1984, LB 761, §6; Laws 1993, LB 536, §74; Laws 1999, LB 828, §161; Laws 2005, LB 256, §83. Operative date July 1, 2007.

**71-1744. Repealed.** Laws 2002, LB 93, s. 27.

**71-1745. Department, defined.** Department shall mean the Department of Health and Human Services Regulation and Licensure.

Source: Laws 1984, LB 761, §8; Laws 1996, LB 1044, §576. Operative date January 1, 1997.

**71-1746. Licensed practitioner, defined.** Licensed practitioner shall mean any physician licensed to practice pursuant to section 71-1,104, whose practice includes obstetrics.

Source: Laws 1984, LB 761, §9. Effective date July 10, 1984.

**71-1747. Collaboration, defined.** *(Effective until July 1, 2007)* Collaboration shall mean a process and relationship in which a certified nurse midwife works together, under the terms of a practice agreement, with a licensed practitioner, and may include work with other health professionals, to deliver health care within the scope of practice of certified nurse midwifery as provided in the Nebraska Certified Nurse Midwifery Practice Act. The collaborative relationship between the physician and the nurse midwife shall be subject to the joint control and regulation of the boards.

**71-1747. Collaboration, defined.** *(Effective on July 1, 2007)* Collaboration shall mean a process and relationship in which a certified nurse midwife works together with other health professionals to deliver health care within the scope of practice of certified nurse midwifery as provided in the Nebraska Certified Nurse Midwifery Practice Act. The collaborative relationship between the physician and the nurse midwife shall be subject to the control and regulation of the board.

Source: Laws 1984, LB 761, §10; Laws 2005, LB 256, §84. Operative date July 1, 2007.

**71-1748. Certified nurse midwife, defined.** Certified nurse midwife shall mean a person certified under the Nebraska Certified Nurse Midwifery Practice Act to practice certified nurse midwifery in the State of Nebraska. Nothing in the act is intended to restrict the practice of registered nurses.

Source: Laws 1984, LB 761, §11. Effective date July 10, 1984.

**71-1749. Approved certified nurse midwifery education program, defined. (Effective until July 1, 2007)**

Approved certified nurse midwifery education program shall mean a certified nurse midwifery education program approved by the boards. The boards may allow such program to be accredited by the American College of Nurse-Midwives.

**71-1749. Approved certified nurse midwifery education program, defined. (Effective on July 1, 2007)**

Approved certified nurse midwifery education program shall mean a certified nurse midwifery education program approved by the board. The board may allow such program to be accredited by the American College of Nurse-Midwives.

Source: Laws 1984, LB 761, §12; Laws 2005, LB 256, §85. Operative date July 1, 2007.

**71-1750. Practice agreement, defined. (Effective until July 1, 2007)** Practice agreement shall mean the written agreement authored and signed by the certified nurse midwife and the licensed practitioner with whom he or she is associated which:

- (1) Identifies the settings within which the certified nurse midwife is authorized to practice;
- (2) Names the collaborating licensed practitioner or, if more than one licensed practitioner is a party to such practice agreement, names all of the collaborating licensed practitioners;
- (3) Defines or describes the medical functions to be performed by the certified nurse midwife, which are not inconsistent with the Nebraska Certified Nurse Midwifery Practice Act, as agreed to by the nurse midwife and the collaborating licensed practitioner; and
- (4) Contains such other information as required by the boards.

**71-1750. Practice agreement, defined. (Effective on July 1, 2007)** Practice agreement shall mean the written agreement authored and signed by the certified nurse midwife and the licensed practitioner with whom he or she is associated which:

- (1) Identifies the settings within which the certified nurse midwife is authorized to practice;
- (2) Names the collaborating licensed practitioner or, if more than one licensed practitioner is a party to such practice agreement, names all of the collaborating licensed practitioners;
- (3) Defines or describes the medical functions to be performed by the certified nurse midwife, which are not inconsistent with the Nebraska Certified Nurse Midwifery Practice Act, as agreed to by the nurse midwife and the collaborating licensed practitioner; and
- (4) Contains such other information as required by the board.

Source: Laws 1984, LB 761, §13; Laws 2005, LB 256, §86. Operative date July 1, 2007.

**71-1751. Supervision, defined.** Supervision shall mean the ready availability of a collaborating licensed practitioner for consultation and direction of the activities of the certified nurse midwife related to delegated medical functions as outlined in the practice agreement.

Source: Laws 1984, LB 761, §14. Effective date July 10, 1984.

**71-1752. Certificate to practice; authorized activities.** The certificate to practice certified nurse midwifery shall authorize the holder, under the provisions of a practice agreement, to (1) attend cases of normal childbirth, (2) provide prenatal, intrapartum, and postpartum care, (3) provide normal obstetrical and gynecological services for women, and (4) provide care for the newborn immediately following birth. The conditions under which a certified nurse midwife shall refer cases to a collaborating licensed practitioner shall be specified in the practice agreement.

Source: Laws 1984, LB 761, §15. Effective date July 10, 1984.

**71-1753. Permitted practice described in practice agreement; supervision; settings; subject to review by boards; rules and regulations. (Effective until July 1, 2007)** (1) The specific medical functions to be performed by a certified nurse midwife within the scope of permitted practice defined by section 71-1752 shall be described in the practice agreement which shall be reviewed and approved by the boards. A quorum shall be required of each board in order to transact any business. For purposes of the Nebraska Certified Nurse Midwifery Practice Act, a majority vote of each respective board shall be required for taking any action and any action shall require the concurrence of both boards. A copy of the agreement shall be maintained on file with the boards as a condition of lawful practice under the act.

(2) A certified nurse midwife shall perform the functions detailed in the practice agreement only under the supervision of the licensed practitioner responsible for the medical care of the patients described in the practice agreement. If the collaborating licensed practitioner named in the practice agreement becomes temporarily unavailable, the certified nurse midwife may perform the authorized medical functions only under the supervision of another licensed practitioner designated as a temporary substitute for that purpose by the collaborating licensed practitioner.

(3) A certified nurse midwife may perform authorized medical functions only in the following settings:

- (a) In a licensed or certified health care facility as an employee or as a person granted privileges by the facility;
  - (b) In the primary office of a licensed practitioner or in any setting authorized by the collaborating licensed practitioner, except that a certified nurse midwife shall not attend a home delivery; or
  - (c) Within an organized public health agency.
- (4) The department shall, after consultations with the boards, adopt and promulgate rules and regulations to carry out the Nebraska Certified Nurse Midwifery Practice Act.

**71-1753. Permitted practice described in practice agreement; supervision; settings; subject to review by board; rules and regulations. (Effective on July 1, 2007)** (1) The specific medical functions to be performed by a certified nurse midwife within the scope of permitted practice defined by section 71-1752 shall be described in the practice agreement which shall be reviewed and approved by the board. A copy of the agreement shall be maintained on file with the board as a condition of lawful practice under the Nebraska Certified Nurse Midwifery Practice Act.

(2) A certified nurse midwife shall perform the functions detailed in the practice agreement only under the supervision of the licensed practitioner responsible for the medical care of the patients described in the practice agreement. If the collaborating licensed practitioner named in the practice agreement becomes temporarily unavailable, the certified nurse midwife may perform the authorized medical functions only under the supervision of another licensed practitioner designated as a temporary substitute for that purpose by the collaborating licensed practitioner.

(3) A certified nurse midwife may perform authorized medical functions only in the following settings:

- (a) In a licensed or certified health care facility as an employee or as a person granted privileges by the facility;
- (b) In the primary office of a licensed practitioner or in any setting authorized by the collaborating licensed practitioner, except that a certified nurse midwife shall not attend a home delivery; or
- (c) Within an organized public health agency.

(4) The department shall, after consultations with the board, adopt and promulgate rules and regulations to carry out the Nebraska Certified Nurse Midwifery Practice Act.

Source: Laws 1984, LB 761, §16; Laws 1993, LB 536, §75; Laws 2005, LB 256, §87. Operative date July 1, 2007.

**71-1754. Change in practice; new or amended agreement. (Effective until July 1, 2007)** If a certified nurse midwife intends to alter his or her practice status by reason of a change in the setting, supervision by a different licensed practitioner, modification of the authorized medical functions, or for any other reason, he or she shall submit a new or amended practice agreement to the boards for approval before any change may be permitted.

**71-1754. Change in practice; new or amended agreement. (Effective on July 1, 2007)** If a certified nurse midwife intends to alter his or her practice status by reason of a change in the setting, supervision by a different licensed practitioner, modification of the authorized medical functions, or for any other reason, he or she shall submit a new or amended practice agreement to the board for approval before any change may be permitted.

Source: Laws 1984, LB 761, §17; Laws 2005, LB 256, §88. Operative date July 1, 2007.

**71-1755. Certification as nurse midwife; application; requirements; temporary certification. (Effective until July 1, 2007)** (1) An applicant for certification as a nurse midwife shall submit to the boards a written application, which includes the applicant's social security number, and such evidence as the boards shall require showing that the applicant is currently licensed as a registered nurse by the state, has successfully completed an approved certified nurse midwifery education program, and has passed a nationally recognized nurse midwifery examination adopted by the boards.

(2) The department may, with the approval of the boards, grant temporary certification as a nurse midwife upon application (a) to graduates of an approved nurse midwifery program pending results of the first certifying examination following graduation and (b) for one hundred twenty days to nurse midwives currently licensed in another state pending completion of the application for Nebraska certification. A temporary permit issued pursuant to this section may be extended for up to one year with the approval of the boards.

(3) The boards shall adopt an examination to be used pursuant to subsection (1) of this section.

(4) If more than five years have elapsed since the completion of the nurse midwifery program or since the applicant has practiced as a nurse midwife, the applicant shall meet the requirements in subsection (1) of this section and provide evidence of continuing competency, as may be determined by the boards, either by means of a reentry program, references, supervised practice, examination, or one or more of the continuing competency activities listed in section 71-161.09.

**71-1755. Certification as nurse midwife; application; requirements; temporary certification. (Effective on July 1, 2007)** (1) An applicant for certification as a nurse midwife shall submit to the board a written application, which includes the applicant's social security number, and such evidence as the board shall require showing that the applicant is

currently licensed as a registered nurse by the state or has the authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska, has successfully completed an approved certified nurse midwifery education program, and has passed a nationally recognized nurse midwifery examination adopted by the board.

(2) The department may, with the approval of the board, grant temporary certification as a nurse midwife upon application (a) to graduates of an approved nurse midwifery program pending results of the first certifying examination following graduation and (b) for one hundred twenty days to nurse midwives currently licensed in another state pending completion of the application for Nebraska certification. A temporary permit issued pursuant to this section may be extended for up to one year with the approval of the board.

(3) The board shall adopt an examination to be used pursuant to subsection (1) of this section.

(4) If more than five years have elapsed since the completion of the nurse midwifery program or since the applicant has practiced as a nurse midwife, the applicant shall meet the requirements in subsection (1) of this section and provide evidence of continuing competency, as may be determined by the board, either by means of a reentry program, references, supervised practice, examination, or one or more of the continuing competency activities listed in section 71-161.09.

Source: Laws 1984, LB 761, §18; Laws 1993, LB 536, §76; Laws 1997, LB 752, §175; Laws 2002, LB 1021, §63; Laws 2003, LB 242, §107; Laws 2005, LB 256, §89. Operative date July 1, 2007.

**71-1756. Certified nurse midwife; right to use title or abbreviation.** Any person who holds a certificate to practice nurse midwifery in this state shall have the right to use the title certified nurse midwife and the abbreviation CNM. No other person shall use such title or abbreviation to indicate that he or she is certified under the Nebraska Certified Nurse Midwifery Practice Act.

Source: Laws 1984, LB 761, §19. Effective date July 10, 1984.

**71-1757. Certification; renewal. (*Effective until July 1, 2007*)** (1) The certificate of each person certified under the Nebraska Certified Nurse Midwifery Practice Act shall be renewed at the same time and in the same manner as renewal of a license for a registered nurse. Renewal of such a certificate shall require that (a) the applicant have a license as a registered nurse issued by the state and (b) documentation of continuing competency, either by reference, peer review, examination, or one or more of the continuing competency activities listed in section 71-161.09, as established by the boards in rules and regulations approved by the boards and adopted and promulgated by the department.

(2) The department shall establish and collect fees as provided in section 71-162.

**71-1757. Certification; renewal. (*Effective on July 1, 2007*)** (1) The certificate of each person certified under the Nebraska Certified Nurse Midwifery Practice Act shall be renewed at the same time and in the same manner as renewal of a license for a registered nurse. Renewal of such a certificate shall require that the applicant have (a) a license as a registered nurse issued by the state or the authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska and (b) documentation of continuing competency, either by reference, peer review, examination, or one or more of the continuing competency activities listed in section 71-161.09, as established by the board in rules and regulations approved by the board and adopted and promulgated by the department.

(2) The department shall establish and collect fees for renewal as provided in section 71-162.

Source: Laws 1984, LB 761, §20; Laws 1986, LB 926, §57; Laws 1993, LB 536, §77; Laws 1994, LB 1223, §42; Laws 2002, LB 1021, §64; Laws 2002, LB 1062, §48; Laws 2003, LB 242, §108; Laws 2005, LB 256, §90. Operative date July 1, 2007.

**71-1758. Lapse of certificate; conditions; effect; restoration.** (1) A certified nurse midwife's certificate lapses if he or she (a) does not have a current license to practice as a registered nurse or an advanced practice registered nurse or has had his or her license to practice as a registered nurse or an advanced practice registered nurse denied, refused renewal, suspended, or revoked or (b) renews such licenses to practice but does not renew his or her certified nurse midwife's certificate.

(2) When a certificate to practice as a certified nurse midwife lapses, the right of the person whose certificate has lapsed to represent himself or herself as a certified nurse midwife and to practice the activities for which a certificate is required terminates. To restore the certificate to active status, the person shall meet the requirements for renewal which are in effect at the time that he or she wishes to restore the certificate and shall pay the renewal fee and the late fee established and collected as provided in section 71-162.

Source: Laws 2005, LB 256, §91. Operative date July 1, 2007.

**71-1759. Repealed.** Laws 2002, LB 93, §27.

**71-1760. Repealed.** Laws 2003, LB 242, s. 154.

**71-1761. Certificate; disciplinary action; procedure; appeal.** A certificate to practice as a certified nurse midwife may be

denied, refused renewal, revoked, or suspended for any violation of the Nebraska Certified Nurse Midwifery Practice Act, for physical or mental disability or incapacity, for gross incompetence, or for any reason for which a license to practice as a registered nurse could be denied, revoked, or suspended. The methods and procedures for notice of hearing, opportunity for hearing, presentation of evidence, conduct of hearing, reinstatement of a certificate, and other matters relating to licensing of certified nurse midwives shall be identical to those pertaining to the denial, revocation, or suspension of a license to practice as a registered nurse. Any decision to deny, refuse renewal of, revoke, or suspend a certificate to practice as a certified nurse midwife may be appealed, and such appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1984, LB 761, § 24; Laws 1988, LB 352, § 123; Laws 2002, LB 1062, § 49. Operative date July 20, 2002.

**71-1762. Licensed health professional; violating act; discipline.** Any person practicing as a certified nurse midwife who is not certified as such by the department and who possesses a current license to engage in any health profession for which a license is issued by the department may have such license denied, not renewed, suspended, or revoked or have other disciplinary action taken against him or her by the department pursuant to the provisions of Chapter 71, article 1, relating to such profession, irrespective of any criminal proceedings for practicing without a certificate.

Source: Laws 1984, LB 761, §25. Effective date July 10, 1984.

**71-1763. Act, how interpreted.** Nothing in the Nebraska Certified Nurse Midwifery Practice Act shall be interpreted to permit independent practice.

Source: Laws 1984, LB 761, §26. Effective date July 10, 1984.

**71-1764. Prohibited activities; penalty.** Any person, corporation, association, or other entity who engages in any of the following activities shall be guilty of a Class IV felony:

(1) Practicing as a certified nurse midwife without a current certificate as such under the Nebraska Certified Nurse Midwifery Practice Act;

(2) Employing or offering to employ any person as a certified nurse midwife knowing that such person is not certified as such under the Nebraska Certified Nurse Midwifery Practice Act;

(3) Fraudulently seeking, obtaining, or furnishing a certificate as a certified nurse midwife; or

(4) Using in connection with his or her name the title certified nurse midwife, the abbreviation CNM, or any other designation tending to imply that he or she is a certified nurse midwife certified under the Nebraska Certified Nurse Midwifery Practice Act when such person is not a certified nurse midwife.

Source: Laws 1984, LB 761, §27. Effective date July 10, 1984.

**71-1765. Uncertified person; acts not prohibited.** The Nebraska Certified Nurse Midwifery Practice Act shall not prohibit the performance of the functions of a certified nurse midwife by an uncertified person if performed:

(1) In an emergency situation;

(2) By a legally qualified person from another state employed by the United States government and performing official duties in this state; or

(3) By a person enrolled in an approved program for the preparation of certified nurse midwives as part of such approved program.

Source: Laws 1984, LB 761, §28. Effective date July 10, 1984.